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PART IV

Section I-B

CENTRAL ACTS AND ORDINANCES AND ORDERS UNDER THE CONSTITUTION BY THE PRESIDENT.

NOTIFICATION.

No. L.D. 1102—Legis. 4-51-52, dated Bangalore, 20th September 1951.

Ordered that the Tariff Commission Act, 1951 (Central Act No. L of 1951) published in the *Gazette of India*, Part II, Section 1, dated the 14th September 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,

Legal Remembrancer and
Secretary to Government,
Law Department.

GOVERNMENT OF INDIA.

MINISTRY OF LAW.

New Delhi, the 14th September, 1951.

The following Act of Parliament received the assent of the President on the 12th September, 1951 and is hereby published for general information :—

THE TARIFF COMMISSION ACT, 1951,

No. L OF 1951.

An Act to provide for the establishment of a Tariff Commission and to regulate its duties and functions.

[12*th September*, 1951]

BE it enacted by Parliament as follows :—

CHAPTER I.

PRELIMINARY.

1. Short title and commencement.—(*1*) This Act may be called the Tariff Commission Act, 1951.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires—

(*a*) "Commission" means the Tariff Commission established under this Act ;

(*b*) "chairman" means the chairman of the Tariff Commission ;

(*c*) "member" means a member of the Tariff Commission and includes the chairman of the Commission ;

(*d*) "prescribed" means prescribed by rules made under this Act ;

(*e*) "regulations" means the regulations made by the Commission under section 25.

CHAPTER II.

ESTABLISHMENT OF THE TARIFF COMMISSION.

3. Constitution of a Tariff Commission and appointment of chairman thereof.—For the purposes of this Act, the Central Government shall establish a Tariff Commission which shall consist of not less than three, but not exceeding five, whole-time members appointed by the Central Government, and one of them shall be nominated by the Central Goverament to be the chairman thereof :

Provided that the Central Government may, as often as may be necessary, appoint not more than two additional members on the Commission for such purpose and period and on such conditions as it thinks fit.

4. Qualifications for membership of the Commission.—The persons to be appointed as members of the Commission shall be men of ability and standing who have shown capacity in dealing with problems relating to commerce or industry or in administration or who have special knowledge in any matter as renders them suitable for appointment on the Commission.

5. Disqualifications for membership.—(*1*) No person shall be qualified for appointment as, or for continuing to be, a member of the Commission if he has directly or indirectly any such financial or commercial interest in any industry or undertaking as is likely to affect him in the discharge of his duties as a member of the Commission.

(*2*) The appointment as a member of the Commission of any person who is a Member of Parliament or of the Legislature of any State shall be void unless within one month of the date of his appointment he ceases to be such Member and if any member of the Commission is elected as a Member of Parliament or of any State Legislature, he shall cease to be a member of the Commission as from the date of such election.

(*3*) Every member shall whenever required by the Central Government so to do, furnish to it such information as it may require for the purpose of securing compliance with the provisions contained in sub-section (*1*).

6. Conditions of service of members of the Commission.—(*1*) Every whole-time member of the Commission shall hold office for a period of three years from the date of his appointment:

Provided that a member relinquishing his Office on the expiry thereof shall be eligible for reappointment for a second period of three years.

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(2) There shall be paid to the members of the Commission such salaries and allowances as may be determined by the Central Government :

Provided that such salaries and allowances shall not be varied to the disadvantage of a member after his appointment.

(3) A member of the Commission ceasing to hold office as such shall not hold any appointment in any private industry or undertaking for a period of three years from so ceasing to hold office, save with the consent in writing of the Central Government.

7. Power of Central Government to remove members from office in certain cases.—(1) The Central Government may remove from office any member of the Commission who has been adjudged an insolvent or has been convicted of an offence involving moral turpitude, and also any member who, in the opinion of the Central Government,—

(a) has become physically or mentally incapable of acting as such member, or

(b) has so abused his position as to render his continuance in office detrimental to the public interest, or

(c) has incurred the disqualification specified in sub-section (1) of section 5.

(2) The removal of any member under sub-section (1) shall be reported, as soon as may be, to Parliament.

8. Appointment of officers and other employees of the Commission.—Subject to such rules as may be made in this behalf, the Commission may for the purpose of enabling it to efficiently discharge its functions under this Act appoint such number of officers and other employees as it may think fit and determine their conditions of service.

9. Sittings of the Commission.—(1) Subject to the regulations, the Commission may hold sittings in any part of India in such place or places as it may deem most convenient for the transaction of its business or proceedings and shall keep the minutes of its proceedings in such form as it may think fit.

(2) Sittings of the Commission shall be convened by the chairman and shall be open to the public unless the Commission in any particular case decides otherwise.

(3) The chairman shall preside at all sittings of the Commission at which he is present and in his absence from any such sitting the members present thereat shall elect one of the members to preside as chairman.

10. Vacancy not to invalidate proceedings.—No act or proceeding of the Commission shall be deemed to be invalid by reason merely of any vacancy in or any defect in the constitution of the Commission.

CHAPTER III.

FUNCTIONS OF THE COMMISSION.

11. Reference of matters relating to protection of industries generally to the Commission.—The Central Government may refer to the Commission for inquiry and report any matter requiring in its opinion—

(a) the grant of protection (whether by the grant of subsidies or the levy of protective duties or in any other suitable form) for the encouragement of any

industry in India (including any industry which has not started production but which is likely to do so if granted suitable protection);

(*b*) an increase or decrease in the duties of customs or other duties in relation to any industry for the protection thereof;

(*c*) action to be taken in relation to the dumping of goods in the market occasioned by excessive import or otherwise;

(*d*) action to be taken where an industry is taking undue advantage of the tariff protection granted to it, particularly with reference to whether the protected industry is—

(i) charging unnecessarily high prices for its goods, or

(ii) acting or omitting to act in a manner which results in high prices being charged to consumers through limitation of quantity, deterioration in quality or inflation of cost of production and the like, or

(iii) acting in restraint of trade to the detriment of the public;

(*e*) further action to be taken in relation to the protection granted to an industry, with a view to its increase, decrease, modification or abolition according to the circumstances of the case.

12. Reference to the Commission of additional matters arising out of protection.—The Central Government may also refer to the Commission for inquiry and report any matter relating to—

(*a*) the effect of protection on—

(i) the general level of prices in the country,

(ii) the cost of living of any specified section of the community;

(iii) the different sectors of the country's economy;

(*b*) the effect of tariff concessions under trade or commercial agreements on the development of any specified industry;

(*c*) any anomalies that may result from the working of protective or revenue duties (as for example, relationship between the rates of duty on finished goods, partly finished goods and raw materials);

(*d*) the prices of particular commodities, whether protected or not.

13. Power of Commission *SUO MOTU* to make inquiries.—The Commission may on its own motion inquiry into and report to the Central Government on any of the matters referred to in clauses (*b*), (*c*), (*d*) and (*e*) of Section 11, or in clauses (*a*), (*b*) and (c) of Section 12.

14, Principles to be taken into account in making any inquiry under Section 11 (1) (a).—(1) In making a report in respect of any matter referred to it under clause (*a*) of Section 11, the Commission shall among other matters have due regard to—

(*a*) the cost of production or manufacture in the principal growing, producing or manufacturing regions of India of the commodity produced by the industry claiming protection and the cost which should be taken to be representative of the industry concerned;

(*b*) the approximate cost of production or manufacture in the principal growing, producing or manufacturing centres of foreign countries of the commodity which competes with the commodity produced by the industry claiming protection if the determination of such cost is necessary for the purpose of any case;

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(*c*) the approximate cost of import of any such competing commodity as is specified in clause (*b*);

(*d*) the price which may be deemed to be the representative fair selling price for growers, producers or manufacturers in India in respect of the industry claiming protection;

(*e*) the quantities of the commodity required for consumption and the quantities thereof produced in or imported into India;

(*f*) the effect of protection, if granted to an industry on other industries, including cottage and other small scale industries.

(2) On the basis of its findings on the matters referred to in sub-section (1), the Commission shall assess, for the purpose of its report,—

(*a*) the relative advantages enjoyed by the industry;

(*b*) the nature and extent of foreign competition;

(*c*) the possibility of the industry developing sufficiently within a reasonable time to be able to carry on successfully without protecti n;

(*d*) the likely effect of a protective tariff or other form of protection on the interests of the consumer or of industries using the commodity in question, as the case may be;

(*e*) the desirability or otherwise of protecting the industry in the public interest.

(3) In recommending the grant of protection to any industry, the Commission may specify the conditions which shall be fulfilled before and after the grant of protection, with particular reference to the following points, namely :—

(*a*) the scale of output;

(*b*) the quality of its products;

(*c*) the price charged for its products;

(*d*) the technological improvements required by the industry;

(*e*) the need for research in the process of manufacture;

(*f*) the training of officers, technicians and other persons employed in the industry;

(*g*) the use in the industry of indigenous products, whether raw or manufactured;

(*h*) the time within which an industry, in respect of which protection has been given in advance of production, should start production; and

(*i*) any other matter in respect of which the Commission considers it necessary to specify conditions.

15. Duties of the Commission.—It shall be the duty of the Commission, at such intervals as may be prescribed,—

(*a*) to investigate into the manner in which protection in relation to any industry has been working, with particular reference to—

(*i*) the cost of production of the protected commodity;

(*ii*) the scale of output of the protected industry;

(*iii*) the quality of the protected commodity;

(*iv*) the prospects of future expansion of the protected industry;

(*v*) the relative competitive position of the industry and the factors entering into it ; and

(*vi*) any other factor having a bearing on the usefulness of the industry to the country's economy ;

(*b*) to investigate into any special conditions that may have been imposed n a protected industry with particular reference to—

(*i*) the extent to which and the manner in which the obligaticns have been discharged,

(*ii*) the further steps that would be necessary to implement them fully,

(*iii*) the difficulties, if any, in the way of the full discharge of such obligations,

and to make a report thereon to the Central Government.

16. Action on Commission's report.—(*1*) Upon receipt of a report made to it by the Commission, the Central Government may take such action as it considers fit in respect of any of the matters dealt with in the report.

(*2*) A copy of every final report made to the Central Government, together with a report of the action taken thereon by the Central Government under sub-section (*1*), shall be laid on the table of Parliament within three months of the submission of the report to the Central Government, if Parliament is then sitting, or, if Parliament is not then sitting within seven days of its re-assembly :

Provided that when the report cannot be so laid, a statement explaining the reasons therefor shall be laid on the table of Parliament.

CHAPTER IV

MISCELLANEOUS

17. Reports and statements.—(*1*) At the end of every financial year or such earlier period as may be prescribed, the Commission shall submit a report to the Central Goverament containing a detailed account of its activities during the year.

(*2*) The Central Government may also call for such reports, returns or statements from the Commission from time to time as it considers necessary.

18. Appointment of assessors to help Commission in the discharge of its functions.—For the purpose of any inquiry under this Act, the Central Government may, either on its own motion and in consultation with the Commission or at the request of the Commission, appoint one or more persons possessing special knowledge of any matter relevant to the inquiry to assist the Commission.

19. Members of Commission to be public servants —All members and officers of the Commission shall be deemed, while acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code (Act XLV of 1860).

20. Powers of the Commission.—(*1*) For the purpose of conducting any inquiry under this Act, the Commission shall have all the powers of a civil court while trying a suit, under the Code of Civil Procedure, 1908 (Act V of 1908) in respect of the following matters, namely :—

(*a*) summoning and enforcing the attendance of any person and examining him on oath ;

(*b*) requiring the discovery and production of any document;
(*c*) receiving evidence on affidavits;
(*d*) requisitioning any public record from any office;
(*e*) issuing commissions for the examination of witnesses.

(*2*) The Commission shall have power to require any person to furnish information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to, the subject matter of any inquiry.

(*3*) The Commission shall be deemed to be a civil court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898), and any proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (Act XLV of 1860).

21. Statements made by persons to the Commission.—No statement made by a person in the course of giving evidence before the Commission shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement:

Provided that the statement—

(*a*) is made in reply to a question which he is required by the Commission to answer, and

(*b*) is relevant to the subject matter of the inquiry.

22. Restriction on disclosure of information.—(*1*) No information relating to any industry being information which has been obtained by or on behalf of the Commission for the purpose of its functions under this Act shall, without the previous consent in writing of the owner for the time being of that industry, be disclosed otherwise than in compliance with or for the purposes of this Act.

(*2*) Nothing in the preceding sub-section shall apply to any disclosure of information made for the purpose of any legal proceeding pursuant to this Act or of any criminal proceeding which may be taken, whether pursuant to this Act or otherwise or for the purposes of any report relating to any such proceeding.

(*3*) If any person discloses any information in contravention of this section, he shall be punishable on conviction with fine, which may extend to one thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

23. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against any member, officer or servant of the Commission for anything which is in good faith done or intended to be done under this Act.

24. Power to make rules.—(*1*) The Central Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power rules made under this section may provide for—

(*a*) the salaries and allowances payable to members, officers and other employees of the Commission and their conditions of service;

(*b*) the procedure to be followed before any member can be removed from office under section 7;

(*c*) the intervals within which reports under section 15 shall be made by the Commission;

(*d*) the form in which and the period within which reports under section 17 shall be submitted to the Central Government;

(*e*) the fees or allowances that may be paid to persons appointed under section 18 to assist the Commission.

25. Power to make regulations.—Subject to the provisions contained in this Act and in any rules made thereunder, the Commission may, with the previous consent of the Central Government, make regulations for the purpose of enabling it to discharge its functions under this Act, and in particular, such regulations may provide for—

(*a*) the procedure and conduct of business of the Commission;

(*b*) the terms and conditions of service of officers and other employees of the Commission;

(*c*) the delegation to one or more members of the Commission of such functions of the Commission as the Commission may specify.

26. Construction of references to Tariff Board in other laws.—References in the Indian Tariff Act, 1934 (XXXII of 1934), or in any other law for the time being in force to the Tariff Board as set up under any Resolution of the Government of India shall be construed as references to the Tariff Commission established under this Act.

K. V. K. SUNDARAM,
Secy. to the Govt. of India.

NOTIFICATION.

No. L D. 1522—Legis. 4-51-65, dated Bangalore, 12th November 1951.

Ordered that the Appropriation (No. 3) Act, 1951, (Central Act No. LX of 1951), published in the *Gazette of India*, Part II, Section 1, dated the 1st November 1951, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,
Legal Remembrancer and
Secretary to Government,
Law Department.

GOVERNMENT OF INDIA.

MINISTRY OF LAW.

Received Assent on 29th October 1951.]

THE APPROPRIATION (NO. 3) ACT, 1951, (LX OF 1951).

AN

ACT

to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the service of the year ending on the 31st day of March, 1952.

BE it enacted by Parliament as follows :—

1. Short title.—This Act may be called the Appropriation (No. 3) Act, 1951.

2. Issue of Rs. 28,75,82,000 out of Consolidated Fund of India for the year 1951-52.—From and out of the Consolidated Fund of India there may be paid and